

MATTER OF SIRHAN, ET AL.
In Deportation Proceedings

A-10711879

A-13598200

A-13578469

Decided by Board June 19, 1970

- (1) In deportation proceedings a collateral attack may be made on a criminal court judgment on the question of jurisdiction.
- (2) Where an alien was charged with deportability under section 241(a)(4) of the Immigration and Nationality Act on the basis of a criminal conviction in California in 1966 for which he was sentenced for one year, with sentence suspended; thereafter the court by order modified the sentence to less than a year; and subsequently the conviction was expunged in 1969, the deportation proceedings are terminated on the basis of the expungement (which eliminates the conviction as a deportation ground) rather than as improvidently begun, since to a prospective employer or other person the latter may lend itself to the erroneous inference that proceedings were terminated as a matter of administrative discretion, rather than because the alien is not deportable.
- (3) Since authority lies with the superior court of California, through the writ of *coram nobis*, to enter an order vacating an alien's prior conviction in that court of violation of California marijuana laws and certifying the case to the juvenile court, which accepted the alien as a ward, deportation proceedings against the alien under section 241(a)(11) of the Act are terminated since the conviction which formed the basis of deportability no longer exists, having been vacated.

CHARGES:

Order: Act of 1952—Section 241(a)(11) [8 U.S.C. 1251(a)(11)]—Convicted of violation of marijuana law.

[SIRHAN, RODRIGUEZ-RODRIGUEZ]

Order: Act of 1952—Section 241(a)(4) [8 U.S.C. 1251(a)(4)]—Convicted of crime committed within five years after entry and sentenced to a year or more.

[TALAVERA-ARREDONDO]